



Advocates for Workplace Fairness

November 16, 2015

Via CM/ECF

The Honorable J. Paul Oetken
U.S. District Court for the
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Wang, et al. v. Hearst Corp., No. 12 Civ. 00793 (JPO) (AJP)*

Dear Judge Oetken:

We represent the Plaintiffs in the above-referenced matter. We write to set forth the Plaintiffs' position as to the next phase of litigation, as directed by the Court's November 2, 2015 order. We understand that Defendant will be submitting its position separately.

In *Glatt v. Fox Searchlight Pictures, Inc.*, the Second Circuit announced a new seven-factor "primary beneficiary" test to be used by courts evaluating Fair Labor Standards Act claims made by unpaid interns. 791 F.3d 376, 384 (2d Cir. 2015). In light of the new standard, the court vacated Judge Baer's denial of summary judgment to the plaintiffs and remanded this case to the district court. The Second Circuit noted that, on remand, the district court could permit the parties to introduce new evidence that was not part of the prior record. *Wang v. Hearst Corp.*, No. 13-4480, 2015 WL 4033091, at *2-3 (2d Cir. July 2, 2015).

In light of the *Glatt* decision, lead Plaintiff Xuedan Wang intends to seek certification of a narrower class of interns who worked in the "fashion closet" (where clothing and accessories were stored) at Harper's Bazaar ("Bazaar"), where she worked. The interns coordinated the pick-up and delivery of clothing and accessories, unpacked and re-packed items, and went on errands to deliver and pick up items. The seven remaining opt-in Plaintiffs, who do not fall within this class, will seek to dismiss their claims without prejudice.

Plaintiffs anticipate taking discovery focused on the new standard announced in *Glatt*. Given the narrowed class described above, Plaintiffs anticipate that discovery can proceed on an expedited basis and that it will take no more than six months. Additional discovery is also warranted because more than two years have passed since Judge Baer issued his opinion on class

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certification and summary judgment in May of 2013. Since that time, Hearst has continued to employ unpaid interns at Bazaar.

We are available to discuss the above at the Court's convenience. We thank the Court for its attention to this matter.

Respectfully submitted,



Rachel Bien

cc: All counsel of record (via CM/ECF)